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Attorneys for Defendants CITY OF FAIRFIELD,  
POLICE OFFICERS MARK SCHRAER, CHAD TIGERT,  
STEVEN TROJANOWSKI, JR., STEPHEN RUIZ, TROY OVIATT,  
FRANCO CESAR and CADE BECKWITH

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

1      **I. INTRODUCTION**

2      Defendants CITY OF FAIRFIELD, POLICE OFFICERS MARK SCHRAER, CHAD  
3      TIGERT, STEVEN TROJANOWSKI, JR., STEPHEN RUIZ, TROY OVIATT, FRANCO CESAR  
4      and CADE BECKWITH (“Defendants”) hereby move this Court *in limine* for an Order precluding  
5      Plaintiffs from introducing, offering evidence of, or making reference to any of the following: media  
6      coverage of the City of Fairfield, its police department, its police chief or any related matters; any prior  
7      civil cases involving the City of Fairfield, its police department or its chief of police. This exclusion  
8      includes, but is not limited to, reports, documentation, interviews, articles, complaints and any and all  
9      other evidence of the above matters.

10     **II. ARGUMENT**

11     **A. Irrelevant Evidence is Inadmissible**

12     Federal Rules of Evidence, Rule 401 defines “relevant evidence” as the following:

13     “Relevant evidence” means evidence having any tendency to make the  
14     existence of any fact that is of consequence to the determination of the  
15     action more probable or less probable than it would be without the  
16     evidence.

17     Federal Rules of Evidence, Rule 402 precludes the admissibility of evidence which is not relevant.

18     Extraneous and unrelated evidence of prior media coverage or past unrelated civil suits has no  
19     relevance whatsoever to the issues raised by Plaintiff’s arrest and the force used to accomplish that  
20     arrest. Further, the admission of such evidence would be unfairly prejudicial to the Defendants and, as  
21     such, is precluded by Federal Rules of Evidence, Rule 403, which provides that:

22     Although relevant, evidence may be excluded if its probative value is  
23     substantially outweighed by the danger of unfair prejudice, confusion of  
24     the issues, or misleading the jury, or by considerations of undue delay,  
25     waste of time, or needless presentation of cumulative evidence.

26     Even if Plaintiffs could show some relevance in the subject evidence, its probative value would be  
27     substantially outweighed by the prejudice, jury confusion and delay which would result from its  
28     admission. As more fully set forth below, evidence of media coverage in this and unrelated lawsuits, is  
completely lacking in probative value and relevance, and is inflammatory.

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1           **B. Evidence of Other Civil Cases Against Defendants is Irrelevant and Prejudicial**

2           As stated above, Federal Rules of Evidence, Rule 403 provides that evidence may be excluded  
3 if its probative value is substantially outweighed by the danger of unfair prejudice. Congress has  
4 defined “undue prejudice” within this context as evidence having an undue tendency to suggest  
5 decision on an improper emotional basis. (See Advisory Committee’s Notes on FRE Rule 403.) Such  
6 evidence uniquely tends to evoke an emotional bias against defendant as an individual, and has trivial  
7 probative value.

8           The California companion statute to Federal Rules of Evidence, Rule 403 is Evidence Code §  
9 352. The California courts have held that the “prejudice” referred to in this section is evidence which  
10 uniquely tends to evoke an emotional bias against defendant as an individual and which has very little  
11 effect on the issue. (*People v. Yu*, 143 Cal.App.3d 358 (1983).) This is directly analogous to the  
12 instant action. Any evidence pertaining to other events, allegations, lawsuits, complaints, accusations  
13 and rumors cannot possibly be construed to have any relevance to the instant action. Further, it should  
14 be excluded under Federal Rules of Evidence, Rule 403 and California Evidence Code § 352 as being  
15 unfairly prejudicial to Defendants in the trial of this matter.

16           Should such evidence be admitted, there is a substantial danger that the jury will be swayed in  
17 its judgment of each individual Defendant officers’ actions in the instant case because of unrelated  
18 problems encountered by the Fairfield Police Department and the City of Fairfield. This type of  
19 scandalous and inflammatory material should not be allowed to bias the jury in its analysis of the facts  
20 of this case. The issue of each Defendant officers’ individual culpability in the instant case should not  
21 be clouded by evidence from other cases and events. The admission of such evidence would impede  
22 the jury’s ability to assess the liability of each Defendant officer in the case before it, based upon the  
23 evidence presented regarding facts and circumstances known to each officer individually at the time of  
24 the subject incident.

25           The trial court has broad discretion to exclude evidence under Federal Rules of Evidence, Rule  
26 403 and Evidence Code § 352 based on unfair prejudice to assure that issues are adjudicated on their  
27 merits. In *People v. Cardenas*, 31 Cal.3d 897 (1982), the Court disallowed evidence of gang affiliation  
28 due to the perceived danger that the jury would infer therefrom the defendant’s criminal disposition.

The same concerns are present in the instant case that the jury may infer “guilt by association” from the evidence of or even reference to other matters involving the City of Fairfield or its police department.

The unfair prejudice which would necessarily be created by the introduction of such evidence also has the potential of creating substantial confusion in the minds of jurors, as to the facts sought to be proven by the introduction of evidence of such unrelated incidents. Further, the admission of such collateral evidence will necessarily result in undue consumption of the Court's time on which ground alone it should be excluded. (See, e.g., *Cubic Corp. v. Marty*, 185 Cal.App.3d 438 (1986); *People v. Hecker*, 219 Cal.App.3d 1238 (1990).) All of these potential dangers weigh strongly against the admissibility of the evidence at issue.

#### **C. No Media Coverage Has Any Relevance in this Matter**

As stated above, pursuant to Federal Rules of Evidence, Rule 403 and California Evidence Code § 352, any evidence of media coverage of the subject or unrelated events or the Fairfield Police Department and the City of Fairfield has no evidentiary value and are prejudicial and inflammatory. Plaintiffs should be precluded from introducing any evidence of such media coverage and from asking any questions about the existence of such evidence.

### III. CONCLUSION

For the reasons stated above, Defendants respectfully request this Court preclude Plaintiffs from making any mention of or asking any questions about any other civil cases or media coverage involving the City of Fairfield, the Fairfield Police Department or Chief Gresham or Officers Schraer, Tigert, Trojanowski, Ruiz, Oviatt, Cesar and Cade Beckwith or any other member of the Fairfield Police Department at the trial of this matter.

Dated: October 17, 2006

MEYERS, NAVE, RIBACK, SILVER & WILSON

By: /s/ Kimberly E. Colwell

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